IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 6976 of 2000

Between:

Y.Anand Rao, S/o. Y.Sundaram.
R/o. 10-3-28, Ramanjaneya Colony,
Kothagudem, Khammam.

..... PETITIONER

AND

1 The Industrial Tribunal-cum- Labour Court, Warangal.
2 The Depot Manager, A.P. State Road Transport Corpn.,
Sathupally, Khammam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records from the 1st respondent and issue an appropriate writ, order or direction particularly one in the nature of Writ of Certiorari, and quash the Award passed by the 1st respondent in I.D.No.169 of 1994, dated 31/07/1999, published on 10/12/1999 as illegal, unjust, contrary to law and perverse; and grant all consequential benefits.

Counsel for the Petitioner: MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondent No.1: G.P. FOR LABOUR

Counsel for the Respondent No.2: SMT.G.JYOTHI KIRAN

The Court made the following :

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ORDER:

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Heard Sri A.K.Jayaprakash Rao, learned counsel appearing for the petitioner, Sri G.Jyothi Kiran, learned standing counsel appearing for the respondent No.2 and the Government Pleader for Labour, appearing on behalf of the respondent No.1.

2. The petitioner, who worked as conductor in the 2nd respondent-corporation, filed this writ petition, inter alia, seeking to assail the award dated 31-07-1999 passed in I.D.No.169 of 1994 by the Industrial Tribunal-cum-Labour Court, Warangal, published in the gazette on 10-12-1999, as illegal.

3. The case of the petitioner in brief is that he joined the service with 2nd respondent-corporation as conductor in the year 1981 and the orders of removal were passed in pursuance of a check conducted on 08-05-1994 by the checking officials of the 2nd respondent-corporation on the route Chintalapudi. Checking officials having found some irregularities in the said check, issued a charge-sheet to the petitioner on 02-11-1992, which includes ten charges. However, after considering the explanation and holding an enquiry, the petitioner was removed from service as per the proceedings dated 29-03-1993. After exhausting the remedies available before the authorities concerned, the petitioner sought a reference of the dispute under Section 2-A(2) of the Industrial Disputes Act and the same was taken up by the respondent No.1 as I.D.No.169 of 1994. As per the orders in I.A.No.357 of 1997 dated 21-01-1998, the 1st respondent has held that the domestic enquiry conducted against the petitioner on the charges as made against him was legal and valid and thereupon considering the case in pursuance of Section 11-A of the Industrial Disputes Act, the

1st respondent passed the impugned award holding that having regard to the facts and circumstances of the case and especially where the petitioner was already subjected similar such termination earlier, he is not entitled to any relief.

4. The learned counsel for the petitioner sought to contend that though in all ten charges were framed, ultimately the charges 4 to 10 were not found correct and charges 1 to 3 are very minor and negligible, but still the petitioner's services were terminated. Further, it is also pointed out that having regard to the fact that he was terminated in the year 1993 and all along he has without been any employment, the respondent No.1 ought to have reinstated or at least ought to have appointed the petitioner afresh.

5. Smt. G.Jyothi Kiran, learned standing counsel appearing for the 2nd respondent sought to repel the aforesaid contentions on the ground that the very facts are staring at the petitioner and, hence, no indulgence need be shown.

6. Considering the submissions made on either side and on perusal of the material the question that falls for consideration is as to whether on the facts and circumstances and especially in pursuance of Section 11-A of the Industrial Disputes Act, the petitioner is entitled to any relief in regard to the quantum of punishment.

7. There is no doubt to the aforesaid facts about the petitioner that he was in service as conductor and ultimately enquiry has been conducted by issuance of a charge sheet in pursuance of certain irregularities found during a check conducted on 08-05-1994. Of the ten charges made against the petitioner, first three charges are with regard to the issuance of ticket and the other charges pertain to other aspects, which are not necessary to be gone into since against those charges the finding was given in favour of the petitioner. Having regard to the finding given by the respondent No.1 in the interlocutory application as per the orders dated 21-01-1998 holding that the domestic enquiry conducted against the petitioner on the charges was valid and proper, it is not open for this Court to go into the correctness of any of the allegations or charges as made against the petitioner. Having regard to the dismissal of the application, I.A.No.186 of 1998, filed by the petitioner for production of certain documents, it is to be seen that having regard to the scope of enquiry under Section 11-A of the Industrial Disputes Act, there is no question of summoning any such

documents which will have any say on the facts of the case. Allowing any such application virtually amounts to re-opening the entire matter and also going back to the stage prior to passing of the order dated 21-01-1998. There is no serious challenge in regard to finding given under the orders dated 21-01-1998.

8. In view of the above, no fault can be found against the respondent No.1 in rejection of the said interlocutory application. Coming to the quantum of punishment as awarded, admittedly the petitioner was removed from the service earlier for the similar such cash and ticket irregularities and subsequently he has been reinstated just two years prior to the present case. This aspect has been taken into consideration apart from the consequential effect of the irregularities as found against the petitioner by the Labour Court and held that punishment of removal is quite reasonable and no indulgence need be shown.

9. In view of the above, I do not find any varying reason to disagree with the award passed by the Labour Court. Hence, there are no merits in the writ petition and the same is accordingly dismissed.

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B.PRAKASH RAO, J.

Dated 10-03-2005.

SKMR

..... REGISTRAR

To

1 The Industrial Tribunal-cum- Labour Court, Warangal.
2 The Depot Manager, A.P. State Road Transport Corpn.,
Sathupally, Khammam.

3 2 CCs to G.P. for Labour, High Court Buildings, Hyderabad (OUT).

4 2 CD copies.